



INTERIOR BOARD OF INDIAN APPEALS

Estate of Donald Sylvester Hairychin, Sr.

39 IBIA 117 (09/10/2003)

Related Board case:

39 IBIA 115

41 IBIA 93



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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ESTATE OF DONALD SYLVESTER : Order Docketing and Dismissing Appeal
HAIRYCHIN, SR. :
: Docket No. IBIA 03-101
:
: September 10, 2003

Appellant Denise Joyce Smutzler sought review of a September 30, 2002, order issued by Indian Probate Judge George D. Tah-bone in the estate of Raymond Wallace Hairychin that amended and corrected the decision in the estate of Decedent Donald Sylvester Hairychin, Sr. 001-301-204D (IP BI 608B 79). For the reasons discussed below, the Board of Indian Appeals (Board) docketed this appeal but dismisses it for failure to prosecute.

It appears that Administrative Law Judge Garry V. Fisher issued the original order in the estate of Raymond Wallace Hairychin on February 12, 1980. Administrative Law Judge Vernon J. Rausch reopened this probate around 1989-1990. According to Judge Tah-bone's September 30, 2002, order, from 1991-1999 there was no activity in the estate. The case was transferred to Administrative Law Judge William S. Herbert sometime prior to June 26, 1999. On February 27, 2001, Judge Herbert transferred the case to Judge Tah-bone, who held two hearings on reopening on September 20, 2001, and April 9, 2002.

Judge Tah-bone found in his September 30, 2002, order that Appellant Smutzler is the daughter of Decedent; the sister and heir of Donald Anthony Hairychin, Jr.; and the granddaughter of Raymond Wallace Hairychin.

The Board ordered Appellant to provide additional information about her address and when she received a copy of Judge Tah-bone's September 30, 2002, order in order to determine if her appeal was timely. It also ordered her to serve her filings on all interested parties. Appellant was to respond by July 1, 2003.

The Board advised Appellant on June 5, 2003, that "if Appellant fails to respond to [the Board's] order, her appeal will be dismissed for failure to prosecute." Order at 2. The Board has received nothing further from Appellant.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal is docketed and dismissed for failure to prosecute.

//original signed
Kathleen R. Supernaw
Acting Administrative Judge

//original signed
Kathryn A. Lynn
Chief Administrative Judge